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DIVISION OF PROFESSIONAL REGULATION

PUBLIC MEETING NOTICE:	BOARD OF DENTISTRY & DENTAL HYGIENE
DATE AND TIME:	Thursday, December 20, 2012 at 3:00 p.m.
PLACE:	Cannon Building, Second-Floor Conference Room A 861 Silver Lake Boulevard, Dover, DE 19904
APPROVED:	January 17, 2013

MEMBERS PRESENT

Blair Jones, DMD, Professional Member, President
John Lenz, DDS, Professional Member, Secretary
Robert Director, DDS, Professional Member
Lucinda Bunting, DMD, Professional Member
Buffy Parker, RDH, Hygiene Advisory Member
Joan Madden, RDH, Professional Hygiene Member
Nathaniel Gibbs, Public Member
Cheryl Calicott-Trawick, Public Member
Bonnie Thomas, RDH, Hygiene Advisory Member

MEMBERS ABSENT

Neil McAneny, DDS, Professional Member
Debra Bruhl, RDH, Hygiene Advisory Member

DIVISION STAFF/DEPUTY ATTORNEY GENERAL PRESENT

Pamela C. Zickafoose, Executive Director, Team A
Allison Reardon, Deputy Attorney General

PUBLIC PRESENT

Howard Zucker, DDS
Susan Pugliese, DDS

CALL TO ORDER

Dr. Jones called the meeting to order at 3:02 p.m.

REVIEW AND APPROVAL OF MUNUTES

The Board reviewed minutes from October 18, 2012. Dr. Director made a motion to accept the minutes with the one correction to a typographical error on Page 4, seconded by Dr. Bunting. By unanimous vote, the motion carried. The Board reviewed minutes from November 30, 2012. Dr. Director made a motion to accept the minutes as written, seconded by Dr. Lenz. By unanimous vote, the motion carried.

PUBLIC HEARING – CONCLUSION

Ms. Reardon reminded the Board that this matter was before them for deliberations due to a new requirement under the Administrative Procedures Act to hold the record open for at least 15 days after the public hearing that was held in October regarding the Board's proposal to modify its regulations to

clarify ambiguities with regard conscious sedation for Restricted I and II permits. Ms. Reardon advised the Board that no written comments were submitted at the hearing or during the extended submission period. There was also no public comment at the time of the hearing. Dr. Director made a motion to accept the proposed amendments to the Rules and Regulations as written, seconded by Dr. Bunting. By unanimous vote, the motion carried. Ms. Reardon will publish in the Register of Regulations for February and the rules will become effective 10 days after published.

DR. HOWARD ZUCKER – PRESENTATION ON CE CREDIT

Dr. Zucker stated he is co-chair of oral-maxillo-facial dentistry at Christiana Care. He said the problem is that the state allows 10 hours of CE per year as faculty and he believes being involved with the clinical training of residents should be included. Rule 6.6.1 states “faculty members of a university” and this does not include clinical training. The staff at CCHS are filling the same function as at any other institution and are fully credentialed and investigated, and CCHS has the only dental residency program in the state of Delaware. They see over 9000 patients per year and conduct in-house consults as well. Their staff functions as part of the multi-disciplinary head and neck cancer team for cases prior to surgery or chemotherapy. They loan their site to DTCC and other schools in the state. Currently they have two full-time and one quarter-time paid faculty who conduct at least three seminars per week and attending faculty participate. Overall, Dr. Zucker wanted CCHS faculty to be recognized for their contributions and requested a change or modification to Rule 6.6.1 to include dental staff who work with residents on a regular basis. Dr. Director stated he should have brought the letter that Dr. Zucker submitted to him regarding the issue. Dr. Zucker supplied an extra copy of his letter that he had with him. DPR staff copied the letter for Board members. Ms. Calicott-Trawick asked what methods were established for accountability and Mr. Zucker replied there is a roster of who is involved in the lecture but most of the supervision is clinical. There are currently 8 residents at CCHS. Board members discussed clinical training and noted that the members of the faculty are not learning new information by training residents; instead the residents learn from the attending dentist. Ms. Reardon asked if the Board was recommending any action in response to the presentation or if the presentation changed their minds about any of the continuing education credits they had disallowed during their audits. Board members answered no. Dr. Director offered to look at Rule 6.6.1 and to provide any suggestions for modification for discussion at the next Board meeting.

UNFINISHED BUSINESS

STATUS OF DENTAL LEGISLATION- No Updates

REQUESTS FOR CE EXCEPTIONS

Lisa Applegate- Review Letter from Ms. Applegate Dated 12/1/12

The Board members reviewed additional documentation submitted. Dr. Lenz made a motion to grant the request for exemption of the remaining two credits and audit her again in 2014, seconded by Ms. Calicott-Trawick. By unanimous vote, the motion carried.

Dr. Cynthia Minsk- Extension Granted Through 12/31/12 to Complete CE

The Board reviewed the letter and paperwork submitted and discussed whether Ms. Minsk would be subject to possible re-examination upon return to practice. Dr. Director asked if Ms. Minsk was correct in questioning the re-examination provision. Ms. Reardon explained that the statute and rules as currently written enable the Board to require re-examination of a licensee who fails to renew a license and is not actively licensed and practicing in another jurisdiction for more than 5 years. Ms. Reardon explained that Ms. Minsk may not be subject to that provision if she keeps up her renewal by completing continuing education under the exemption provisions which she has been doing for several years even though she is not actively practicing. Dr. Director made a motion to write a letter to Dr. Minsk thanking her for her submission to date but stating that the Board is not making any changes in the requirements and further advising that she must complete

the additional 8 credits by January 15, 2013, seconded by Ms. Calicott-Trawick. By unanimous vote, the motion carried. Dr. Zickafoose and Ms. Reardon will draft the letter. The Board concluded that requiring the 50 CE credits to be completed by January 15th was not punitive and Dr. Minsk had already received an exemption allowing her to complete the credits through journal articles.

REVIEW OUTSTANDING AUDITS

Dentists

Hammond Knox- Review letter dated 10/15/2012 and 3rd request to accept CEUs for Attending at CCHS

Dr. Jones stated the 20 credits were in dispute from the hospital residency program and he has been an attending for a long time. However, the Board has never accepted the 20 credits. Members reviewed credits already submitted, including 10 for self-study, and concluded that Dr. Knox was still deficient 20 credits. Dr. Jones made a motion that Dr. Knox be required to submit documentation for the 6 credits he is seeking from CCHS and further that the Board deny CE credit for participating as a hospital attending, seconded by Dr. Lenz. Dr. Director requested to amend the motion to require that the documentation of the deficient 20 credits be submitted by January 15, 2013 or Dr. Knox will be referred for a hearing before a Hearing Officer. By majority vote the motion carried with Ms. Calicott-Trawick recusing.

Nicholas J. Russo

The Board reviewed the certificate of completion submitted by Dr. Russo. Dr. Director made a motion to accept the documentation as meeting the audit requirements, seconded by Dr. Bunting. By unanimous vote the motion carried.

Terry A. Bryan

The Board reviewed Dr. Bryan's letter dated 12/12/12 and new certificates of completion. Dr. Jones made a motion to accept the 20 credits, seconded by Dr. Bunting. By unanimous vote, the motion carried.

David C. Ehrenfeld

The Board reviewed Dr. Ehrenfeld's letter dated 11/7/12 and a new certificate of completion. Dr. Director made a motion to accept the credits submitted and to send Dr. Ehrenfeld a letter stating that no credits already submitted for the 2010-2012 renewal cycle and audit could be carried over into the next renewal period. By unanimous vote, the motion carried.

Robert M. Blitzer

Dr. Zickafoose reported that a Rule to Show Cause hearing still needs to be scheduled.

Dental Hygienists

Vicki Korr-Pringle

A new certificate of completion was reviewed by the Board. Dr. Director made a motion to accept the CE, and audit Ms. Korr-Pringle again in 2014, seconded by Dr. Jones. By unanimous vote, the motion carried.

Dr. Director made a motion to place all dentists and hygienists with outstanding audits this year on the audit list for 2014, seconded by Dr. Jones. By unanimous vote, the motion carried.

Discontinuation of CODA's Accreditation Status of A.I. DuPont's Pediatric Dentistry Residency Program Status of Dr. Napoli's Dentist Limited Program Director License

Ms. Reardon noted that it appears from Dr. Napoli's response letter dated 11/29/12, that he is the director of another program. The issue before the Board is to determine if Dr. Napoli is eligible to continue to hold a limited license. Dr. Director made a motion to accept Dr. Napoli's appointment at CCHS as fulfilling the criteria to hold a limited program director license, seconded by Dr. Lenz. By unanimous vote, the motion carried.

Dentist Limited Director Program License- Dr. Nidya O. de la Torre

Dr. Director reminded the Board that A.I. DuPont lost their CODA residency program with the departure of the previous director. Ms. Reardon stated the Board could not evaluate whether Dr. de la Torre qualifies unless she completes and submits an actual application. Further, the residency program has to be CODA approved before the Board can approve a program director for the program. Dr. Director asked Ms. Reardon to draft a letter for Dr. de la Torre.

NEW BUSINESS

RATIFICATION OF LICENSES/PERMITS ISSUED BY DPR SINCE LAST BOARD MEETING

Dentists- none

Dental Hygienists

Michele A. McClain

Tarina Nicole Munoz-Flagg

Ms. Parker made a motion to approve licensure for both hygienists, seconded by Dr. Director. By unanimous vote, the motion carried.

Dental Limited Residents – none

Restricted Permit I – none

Restricted Permit II

Daniel J. Fay

Dr. Jones made a motion to approve the permit, seconded by Dr. Lenz. By unanimous vote the motion carried.

Unrestricted Individual Permit

Robert P. Horne

Dr. Director made a motion to approve the permit, seconded by Dr. Jones. By unanimous vote the motion carried.

REVIEW OF NEW APPLICATIONS FOR LICENSURE

Dental Hygienists

Lori Garris- Ms. Reardon reviewed the criminal background and advised that none of the convictions listed are included in the Board's regulation identifying crimes substantially related to the practice of dental hygiene. As a result, a waiver is not required. Dr. Lenz made a motion to approve licensure, seconded by Dr. Director. By unanimous vote, the motion carried.

REVIEW HEARING OFFICER RECOMMENDATIONS

As a preliminary matter to the review of the recommendations, Dr. Director noted that he observed some inconsistencies in the Hearing Officer recommendations. Ms. Reardon agreed but explained that the orders for Dr. Minus and Dr. Deakyne recommending no discipline even though their submissions were not timely was based on a technical deficiency in the initial notice that was sent to them that did not indicate that failure to comply by August 1st would result in discipline. The technicality did not occur with the other licensees and the notice has been corrected.

Dentists

Dr. Homer W. Minus

Ms. Reardon stated no written response was received from Dr. Minus and no discipline was recommended. Dr. Director made a motion to approve the recommendation, seconded by Dr. Bunting. The motion carried by the unanimous vote of the participating Board members.

Dr. Tawana M. Medlin

Ms. Reardon summarized the written response from Dr. Medlin who claimed she faxed all information, called several times and got no answer, and came into the DPR office. Members discussed that she made several attempts at contacting the office but the documents did not arrive until after the hearing. The recommendation included a Letter of Reprimand, a fine, and completion of 19 credits within 60 days (suspend license if not completed on time), and flag for audit. Dr. Director asked Ms. Reardon to explain the significance of a Letter of Reprimand. She stated that it is one of the disciplinary options available to the Board and is part of the disciplinary action reportable to the National Practitioner Databank. A letter of reprimand does not in and of itself preclude a licensee from practicing in Delaware; however, the fact of discipline whether it is a reprimand or other form of discipline might affect ability to practice in other states because it has to be disclosed on the application. Ms. Reardon reminded the Board members they were bound by the Hearing Officer's findings of fact. Dr. Lenz stated there was no supporting documentation for the list of continuing education Dr. Medlin provided so there was no basis for dispute. Dr. Bunting made a motion to accept the Hearing Officer Recommendation, seconded by Ms. Madden. The motion carried by the unanimous vote of the participating Board members.

Dr. David Deakyne

As noted in the preliminary discussion above, Ms. Reardon stated no discipline was recommended by the Hearing Officer because of a technicality that Dr. Deakyne was not properly informed that he could be disciplined for failing to submit verification of his continuing education by the August 1, 2012 deadline. The notices have now been corrected. Dr. Deakyne admits he did not comply in a timely manner. Dr. Director made a motion to accept the recommendation, seconded by Ms. Calicott-Trawick. The Board recommended flagging Dr. Deakyne for audit in 2014. The motion carried by the unanimous vote of the participating Board members.

Dental Hygienists

Elizabeth C. Nicholson

Ms. Reardon summarized the Hearing Officer's recommendation which found no basis for Ms. Nicholson's delay in submitting her CE. The Hearing Officer recommended a Letter of Reprimand and that Ms. Nicholson be flagged for audit in 2014. Ms. Parker made a motion to approve the recommendation, seconded by Ms. Calicott-Trawick. By unanimous vote, the motion carried.

Michelle L. Cunningham

Ms. Cunningham submitted exceptions by letter dated October 22, 2012. Dr. Director commented that the monetary fine seemed steep since she had all of her CE despite the late submission. The hygiene advisory members did not believe that that fine was excessive based on the failure to comply. Ms. Parker made a motion to approve the recommendation, seconded by Ms. Calicott-Trawick. By unanimous vote, the motion carried.

Christina Lynn Harrison

No exceptions were submitted by Ms. Harrison. Ms. Parker made a motion to approve the Hearing Officer Recommendation as written, seconded by Ms. Calicott-Trawick. Dr. Director

pointed out that Ms. Harrison appeared for the hearing to offer mitigating circumstances. By unanimous vote, the motion carried.

Martha H. Lowe

Ms. Lowe filed exceptions by letter dated 10/24/12 and received in the Division on 10/31/12. Ms. Reardon read the letter to the Board. Dr. Director commented he was inclined to lower the fine because Ms. Lowe presented a good case. The Board discussed that licensees know they are subject to audit, this was Ms. Lowe's third audit, and the delay in response and ensuing hearing required a lot of Board member and staff time. Ms. Calicott-Trawick made a motion to modify the recommendation by removing the financial penalty and keeping all other recommendations, seconded by Dr. Director. By majority vote, the motion carried with 6 Yes and 3 No votes.

Baongan T. Huynh

No written response was received. Ms. Reardon summarized the Hearing Officer found she complied with the audit but was late and she was remorseful. Dr. Director made a motion to accept the Hearing Officer recommendation, seconded by Dr. Bunting. The motion carried with one opposed vote.

RULES AND REGULATIONS

Review Proposed Changes to Rules 6.6.1 and 6.12.1 from Dr. Director

Discussion continued regarding the request from the Hearing Officer Unit to review the Board's CE rules. Dr. Director supplied proposed changes to 6.6.1 and suggested to strike through "any dentally related field" to make it less ambiguous and clearer for what credit is awarded. He stated 10 hours per year for teaching is a lot. This change did not apply to hygienists; in Rule 6.10.1 they have 5 hours per year and this is reasonable since they do not require as many CE credits for renewal. Dr. Director also suggested changes to 6.12.2 and Ms. Reardon suggested changing the word "may" to "must" in the sentence starting with "teaching faculty." Dr. Zickafoose suggested adding the word "title" to describe self-study CPE.

Ms. Calicott-Trawick stated there was ambiguity around the word "employed." She further commented this rule applies to faculty from dental school-not residency faculty which is after graduation. Dr. Director stated faculty members at a school are employed but not necessarily paid. Dr. Director stated that he goes to the hospital and provides volunteer hours helping new dentists and this is a way of giving back to the profession. Delaware is one of the first states to have a mandatory residency program but he is not sure training residents qualifies as CE. Dr. Jones stated he was hesitant and didn't think they should get CE. Ms. Madden pointed out that *Give Kids a Smile* program was granted CE and that was a volunteer experience. Ms. Calicott-Trawick stated when she was a dental patient she felt more secure when a licensed dentist rounded with the resident so she thinks residency training should count as CE. Dr. Lenz pointed out that of all the years of audits, only one or two were submitted to use residency training as CE. Ms. Madden stated as an instructor at school, she never submitted that as CE and now she understands what Dr. Director was implying that 10 hours is a lot. Dr. Lenz questioned eliminating 6.6.1. Dr. Director replied he would work on it and modify the rule to include credit for teaching didactic and to tighten up the language. Dr. Lenz stated that a licensee should not get credit for doing his/her job. Dr. Director will report back at the next meeting.

Status of Board Order Signed 10/18/12 for Technical Corrections to Rules 6.5.1.1. & 6.5.1.4

Ms. Reardon stated the technical correction order will be submitted to the Register of Regulations along with the anesthesia order in February and both will be effective February 11th.

Review Rules and Regulations Governing Specialty Residency Requirements and email from Dr. Sara A. Khan for University of PA Dental School Orthodontic Program

Ms. Reardon advised the Board that she believed that she and Dr. Jones had already provided a response to send to Dr. Khan. Ms. Reardon will check and asked Dr. Zickafoose to send the e-mail to her to confirm. If it is still a pending matter it will be added to the January agenda.

COMPLAINT UPDATES

09-16-11- Dismissed

09-05-12- Pending hearing before hearing officer. Dr. Zickafoose reported that the complainant hired an attorney who is working with the prosecuting DAG. A hearing will be scheduled or an agreement may be reached.

09-21-12- Assigned to Dr. Director

09-22-12- Assigned to Dr. Bunting

DISCIPLINE AND COMPLIANCE UPDATES

Dr. Marieve Rodriguez- No update.

Dr. Bruce Fay- Members reviewed correspondence received 11/28/12 and found him to be in compliance.

CORRESPONDENCE

American Academy of Dental Sleep Medicine- Policy Statement on Diagnosis and Treatment of Obstructive Sleep Apnea

Ms. Reardon stated that this was for information purposes only and no action was required.

Organization for Safety, Asepsis and Prevention

Ms. Reardon stated this was for information purposes only and perhaps the DPR compliance officer might want to attend the meeting.

OTHER BUSINESS BEFORE THE BOARD

Dr. Jones asked Mr. Gibbs if he would be available for the exam in January and Mr. Gibbs confirmed his availability.

Ms. Reardon announced she had accepted an appointment by the Attorney General as the State Solicitor for the State of Delaware. Her new position is effective immediately and she will no longer be directly involved with the Board. Board members offered congratulations and best wishes to Ms. Reardon.

PUBLIC COMMENT- None

EXECUTIVE SESSION

Review Email Regarding Practical Exam for Dental Candidates

Update from Dr. McAneny Regarding Validation of Exam Calibration Questions from Temple

Dr. Director made a motion to go into Executive Session at 5:30 p.m., seconded by Ms. Calicott-Trawick.

The Board ended Executive Session at 5:38 p.m.

Dr. Jones made a motion to send an email to Dr. Cicorelli advising that the corrections she suggested will be made to the forms for the next exam. The Board will address the corrections for the next examination by making an announcement prior to the exam in January, seconded by Dr. Director. By unanimous vote, the motion carried.

NEXT MEETING

The next meeting will be January 17, 2013 at 3:00 p.m. in Conference Room A located on the second floor of the Cannon Building at 861 Silver Lake Boulevard, Dover, DE.

ADJOURNMENT

There being no further business to discuss, Dr. Jones made a motion, seconded by Mr. Gibbs to adjourn the meeting at 5:40 p.m. The motion to adjourn carried unanimously.

Respectfully Submitted,

A handwritten signature in black ink that reads "Pamela C. Zickafoose". The signature is written in a cursive, flowing style.

Pamela C. Zickafoose, EdD, MSN, RN, NE-BC, CNE
Executive Director, Team A, Division of Professional Regulation